

BROWN & BURKE  
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RUFUS E. BROWN  
M. THOMASINE BURKE

November 3, 2009

**Via E-Mail and U.S. Mail**

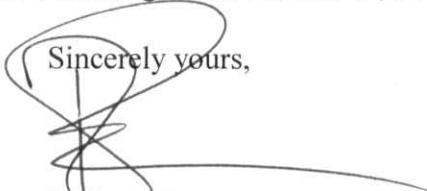
Board Chair Susan Lessard  
Board of Environmental Protection  
c/o Terry Hanson  
17 State House Station  
Augusta, Me. 04333

Re: *Petition for a Temporary Restraining Order Pending Appeal of the  
Final order in the Record Hill Wind*

Dear Ms. Lessard:

I am sending by mail with this letter a Petition of Aggrieved Parties for a Temporary Restraining Order on the Issue of Financial Capacity Pending Appeal. We request that this Petition be considered and acted upon at the Board's meeting on November 19, 2009.

Sincerely yours,



Rufus E. Brown

REB/encl.

cc. Steve Thurston  
Peggy Bensinger, Esq.  
Juliet Browne, Esq.

STATE OF MAINE  
BOARD OF ENVIRONMENTAL PROTECTION

In Re:	)	
RECORD HILL WIND, LLC	)	<b>PETITION OF AGGRIEVED PARTIES</b>
Roxbury, Oxford County	)	<b>FOR A TEMPORARY RESTRAINING</b>
RECORD HILL WIND PROJECT	)	<b>ORDER ON THE ISSUE OF</b>
L-24441-24-A-N (approval	)	<b>FINANCIAL CAPACITY PENDING APPEAL</b>
L-24441-TF-B-N (approval)	)	

The Concerned Citizens to Save Roxbury ("CCSR") and other individuals identified in the referenced matter ("Aggrieved Parties") petition the Board of Environmental Protection ("BEP") to issue an emergency order prohibiting further construction on the Record Hill Wind Project pending the Applicant's satisfaction of the financial capacity requirements in 38 M.R.S.A. §484.1. Request is made for this Petition to be acted upon at the November 19, 2009 meeting of BEP.

BACKGROUND ON THE ISSUE OF FINANCIAL CAPACITY

On September 21 2009, the Aggrieved Parties filed an appeal to the BEP from the Final Order of the Department of Environmental Protection ("DEP") dated August 20, 2009, approving the application of Record Hill Wind, LLC for the Record Hill Wind Project pursuant to 38 M.R.S.A. Sections 344 and 341.D.4 and DEP Rule 2, Section 24.B(1). The appeal is still pending. One of the issues raised in the appeal is whether Record Hill, LLC satisfied the requirements of demonstrating "financial capacity" in their Application for a permit to construct and operate the Record Hill Wind Project. See the Aggrieved Parties' Appeal Document dated September 21, 2009, at 33-34.

After the appeal was filed, the Aggrieved Parties brought to the attention of the Attorney General's Office that there was an inconsistency in the Final Order appealed from on the issue of financial capacity. The Final Order states in Section 3 at pg. 6 that:

The Department finds that the applicant has demonstrated adequate financial capacity to comply with Department standards provided that the applicant submits final evidence of financial capacity **prior to the start of construction** as referenced above. [Emphasis added.]

Yet in Approval No. 4 at pg. 48 of the Final Order, the Applicant is not required to submit evidence of financial capacity until “[p]rior to the start of operation.” These two provisions are inconsistent.

Thereafter, the DEP clarified the inconsistency, informing the Applicant by telephone on October 1, 2009 that it intended for the Applicant to demonstrate financial capacity prior to construction. In response, the Applicant submitted a letter from a bank, Northern Trust, dated August 27, 2009 (the “Bank Letter”), stating that an unnamed “controlling owner of Record Hill Wind LLC” had on deposit with the Bank cash and securities in excess of the projected cost of the Record Hill Wind Project, namely \$120,000. The Bank Letter concluded with caveats that the Bank was making no claims that these funds would continue to be held on deposit, and that the Bank had not issued a letter of credit or otherwise committed to finance the Project. *See, Exhibit A and Exhibit B* hereto. On October 5, 2009, the DEP issued a letter to the Applicant accepting the Bank Letter as proof of financial capacity. *Exhibit C* hereto.

The DEP was in error in when it accepted the Bank Letter as demonstration of financial capacity. Construction continues, doing irreparable damage to project area, while the appeal is pending without adequate proof of financial capacity, and therefore the Aggrieved Parties seek an emergency order from the BEP stopping construction until financial capacity can be demonstrated.

THE APPLICANT HAS NOT DEMONSTRATED FINANCIAL CAPACITY

The requirement for an applicant to demonstrate financial capacity is contained in 38

M.R.S.A. §484.1:

The department shall approve a development proposal whenever it finds the following: \*\*\*

1. Financial capacity. The developer has the financial capacity ... to develop the project in a manner consistent with state environmental standards and with the provisions of this article. The commissioner may issue a permit under this article that conditions any site alterations upon the developer providing the commissioner with *evidence that the developer has been granted a line of credit or a loan by a financial institution authorized to do business in this State ... or with evidence of any other form of financial assurance the board determines by rule to be adequate.* [Emphasis added.]

The Applicant has not met this requirement. The DEP has issued rules, Chapter 375, that requires the applicant under the Site Development law to make a submission in one of the following forms, in addition to the estimate of the cost and the timing of the project:

(3) A letter from a financial institution, government agency, or other funding agency indicating a commitment to provide a specified amount of funds and uses for which the funds may be utilized.

(4) In cases where funding is being required but there can be no commitment of money until appropriate approvals are received, a letter of "intent to fund" from the appropriate funding institution Indicating the amount of funds and their specified uses.

(5) The most recent corporate annual report indicating availability of sufficient funds to finance the development together with explanatory material interpreting the report when requested.

(6) Copies of bank statements or other evidence indicating availability of funds, *when the developer will personally finance the project.* [Emphasis added.]

The Applicant has not submitted any of these – it has no submitted a commitment from a third party for financing, or a letter of intent to fund, or a corporate annual report, or bank statements showing the ability of the developer to self-finance the project.

In Section 3 of the Application, Record Hill Wind, LLC represents that it “intends to use *third-party financing* for the Record Hill Wind Project.” [Emphasis added.] Under these circumstances, only the first two kinds of submissions are relevant. However, even if Record Hill Wind LLC were to change its mind and represent that it now intends to self-finance, the last two forms of submissions would be relevant but have not been complied with. All that was submitted is a statement by a bank that an unnamed principal has money and securities on deposit without any further statement of commitment or even intent. There is no way that such a letter constitutes, in the words of the statute, “financial assurance.” It is not assurance of anything. These circumstances were brought to the attention of the Assistant Attorney General advising DEP on October 8, 2009 (see *Exhibit D*), but no action was taken on it.

When the DEP promulgated Chapter 373 it emphasized the importance of the financial capacity requirement. It cited *Maine Clean Fuels, Inc.*, 310 A.2d 736, 755 (1973) for the proposition that the ability to finance the cost of meeting pollution standards is part of the total financing and that the Board’s experience has been that air and water pollution control equipment is usually the last to be installed in a project. *See*, Chapter 375, NOTE.. If Record Hill Wind, LLC in fact lacks financial capacity for the whole project, there is an unacceptable risk that there will be irreparable damage to the environment associated with the project. Significant construction is going on now, as shown by the Affidavit of Gary Steinberg, attached hereto as *Exhibit E*. The requirement that a developer demonstrate financial capacity for the entire project is designed to protect against this risk. The Applicant should not be allowed to proceed further with construction until it meets this requirement.

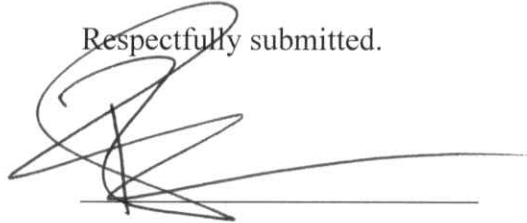
#### CONCLUSION

For the reasons given above, the Aggrieved Parties request the BEP to issue an

emergency order at its November 17, 2009 meeting prohibiting further construction on the Record Hill Wind Project until the statutory requirement to demonstrate financial capacity has been satisfied.

Dated: November 3, 2009

Respectfully submitted.

A handwritten signature in black ink, appearing to be 'Rufus E. Brown', written over a horizontal line.

Rufus E. Brown, Esq.  
BROWN & BURKE  
85 Exchange Street - P.O. Box 7530  
Portland, ME 04112-7530  
(207) 775-0265  
[rbrown@brownburkelaw.com](mailto:rbrown@brownburkelaw.com)

Attorney for The Concerned Citizens to  
Save Roxbury and Other Aggrieved Parties

**From:** Rob Gardiner [roberthgardiner@gmail.com]  
**Sent:** Thursday, October 01, 2009 5:23 PM  
**To:** Callahan, Beth  
**Cc:** Mike Novello; Ryan, Jonathan  
**Subject:** financial capacity

**Attachments:** Bayroot\$letter.doc.pdf  
Beth,

As we discussed on the phone, we believe that the attached letter meets DEP's requirement that the applicant demonstrate financial capacity. Although the state's standards are imprecise, when we compare the enclosed statement with those of other applicants, we feel this is far more specific and complete in demonstrating capability. We hope that you will agree.

Please let us know as soon as possible whether you determine that this letter meets the requirement. Because we have already committed significant financial resources mobilizing construction activities based on the previous interpretation of state requirements, it is important for us to know as soon as possible if any further demonstration is needed. We do not want to be forced to stop construction activities that are already well underway. We request in advance and opportunity to discuss any deficiencies in meeting the state's standards before DEP takes any action that would affect ongoing activities.

Thank you for your earliest response.

Rob Gardiner



The Northern Trust Company  
50 South La Salle Street  
Chicago, Illinois 60603  
(312) 630-6000



**Northern Trust**

August 27, 2009

David P. Littell  
Commissioner  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

Dear Mr. Littell:

The controlling majority owner of Record Hill Wind, LLC ("the Client") has been a custody client of The Northern Trust Corporation ("the Bank") for seven years. At the behest of the Client, we are confirming the Client's availability of funds to finance the development of a windfarm in Maine by Record Hill Wind, LLC, permitted by Draft Permit # L-24441-24-A-N/L-2441-TF-B-N ("the Development"). We understand the estimated cost of the Development to be approximately \$120 million.

As of August 21, 2009, the Client had unencumbered cash and securities at the Bank in excess of \$150 million, and on every day of at least the past year, has had unencumbered cash and securities of at least \$150 million.

The Bank makes no claims about the continued availability of those assets. This letter does not represent a letter of credit from the Bank, and the Bank is in no way compelled to fund any aspect of the Development.

Yours truly,

A handwritten signature in black ink, appearing to read "K A Miller".

Kimberly A. Miller  
Senior Vice President







JOHN ELIAS BALDACCIO  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



DAVID P. LITTELL  
COMMISSIONER

October 5, 2009

Robert Gardiner  
Independence Wind  
110 Foreside Road  
Cumberland Foreside, ME 04110-1434

**RE: DEP ORDER #L-24441-24-A-N/L-24441-TF-B-N**  
**RECORD HILL WIND PROJECT – FINAL EVIDENCE OF FINANCIAL ASSURANCE**

Dear Mr. Gardiner:

As you are aware, the Department granted approval to construct a 50.6-megawatt wind energy development project, known as the Record Hill Wind Project, on August 20, 2009, as referenced in the Department Order mentioned above.

The Order was appealed to the Board of Environmental Protection by the Concerned Citizens to Save Roxbury and other parties on September 21, 2009. One of the issues raised by the appellants is in regard to Finding 3 of the Order and the related condition of approval concerning Financial Capacity. Finding 3 states "The Department finds that the applicant has demonstrated adequate financial capacity to comply with Department standards provided that the applicant submits final evidence of financial capacity prior to the start of construction as referenced above". The conclusion and condition of approval which stem from the finding on financial capacity state "The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards provided that prior to the start of operation, the applicant submits evidence for review and approval that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State, or evidence of another form of financial assurance determined by the Department pursuant to Chapter 373(1), as described in Finding #3" and "Prior to the start of operation, the applicant shall submit final evidence for review and approval that it has been granted a line of credit or loan by a financial institution authorized to do business in this State or evidence of another form of financial assistance determined by the Department to be adequate pursuant to Chapter 373(1) of the Department's Rules", respectively.

The conclusion and Condition 4 are inconsistent with the underlying finding and do not comply with the Site Location of Development Act licensing criterion and the statute found in 38 M.R.S. Section 484(1). The Financial Capacity criterion of the Site Law allows the Commissioner to issue a permit "that conditions any site alterations upon a developer providing the Commissioner with evidence that the developer has been

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106 HOGAN ROAD  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 760-3143



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCIO  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

granted a line of credit or a loan... or with evidence of any other form of financial assurance the Board determines by rule to be accurate." The inconsistency in the Order was a drafting and editing error and the Order should uniformly require that the final demonstration of financial capacity be completed before construction of the project. For this reason, the Department has determined that the finding in the Order stands and must be adhered to as it is stated in statute.

In response to our clarification of this matter, which was conveyed to you by telephone on October 1, 2009, a letter, dated August 27, 2009, from The Northern Trust Company was submitted to the Department in regards to financial capacity. The letter confirms that Record Hill Wind, LLC. currently has adequate funds to finance the Record Hill Wind Project by means of unencumbered cash and securities held by The Northern Trust Company.

After review of this letter, the Department has determined that this evidence of financial capacity to develop the project is consistent with state environmental standards. Therefore, the Department's requirement to demonstrate financial capacity as stated in Finding 3 of Department Order #L-24441-24-A-N/L-24441-TF-B-N has been met and complies with Department standards.

If you have any additional questions in regards to this matter, please feel free to contact me or Marybeth Richardson. I may be reached at (207) 287-7898 or via email at Beth.Callahan@maine.gov. Marybeth may be reached at 822-6335 or via email at Marybeth.Richardson@maine.gov.

Sincerely,

Beth Callahan, Project Manager  
Division of Land Resource Regulation  
Bureau of Land & Water Quality

Cc: File

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TELEPHONE (207) 775-0265  
FACSIMILE (207) 775-0266

RUFUS E. BROWN  
M. THOMASINE BURKE

October 8, 2009

VIA E-Mail [peggy.bensinger@maine.gov](mailto:peggy.bensinger@maine.gov)  
and U.S. Mail

Margret A. Bensinger, AAG  
Office of the Attorney General  
Natural Resources Division  
6 State House Station  
Augusta, ME 04333-0006

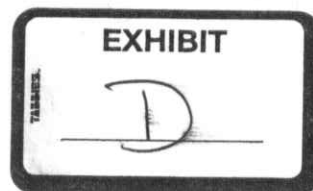
Re: *Record Hill Wind Project*

Dear Peggy:

We finally received the letter from Northern Trust dated August 27, 2009, which the Department of Environmental Protection ("DEP") has accepted as proof of the financial capacity requirement on the part of Record Hill Wind, LLC to build the Record Hill Wind Project and believe it does not actually meet this requirement.

In Section 3 of the Application, Record Hill Wind, LLC represents that it "intends to use *third-party financing* for the Record Hill Wind Project." (Emphasis added.) No evidence of third party financing was submitted by the Applicant. Instead the Applicant submitted a letter by a bank, Northern Trust, that states that some unnamed majority owner of Record Hill Wind, LLC has unencumbered cash in an account at the bank and, even as to that statement, there is a qualification that "no claims about the continued availability of those assets" are made. We assume that the letter is alluding to Bayroot LLC. Whether it does or not is immaterial because no representation is made on behalf of the *Applicant*, Record Hill Wind, LLC or, contrary to the representations in the application, that the Applicant has a commitment from its majority owner to finance the project. Thus the Northern Trust letter does not meet the letter or even the spirit of the law.

You told me that the letter accepted by the DEP was consistent with the proof of financial capacity accepted by the DEP in other cases. We question whether that is true. In the Rollins Project, the applicant, Evergreen Wind Power III, LLC, represented that it had a *commitment* for financing the project from its parent company, First Wind Holdings. See the first attachment to this letter. In the case of Stetson Wind II, LLC, the applicant made a similar representation,



Margret A. Bensinger, AAG

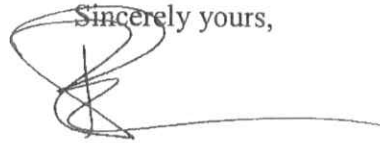
October 8, 2009

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accompanied by a financial statement. See the second attachment to this letter.

It is disturbing to Concerned Citizens to Save Roxbury that enforcement of the plain requirements of financial capacity has been so casually treated by the DEP. It does nothing to allay the fears of this organization and others that the wind power approval process has been politicized. I urge you to advise DEP that the Applicant still has not met the financial capacity requirements and should be made to do so before construction continues on the project.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'Rufus E. Brown', with a long horizontal line extending to the right.

Rufus E. Brown

cc. Steve Thurston

James Cassida, DEP

## **Section 3**

### **Financial Capacity**

## 1.0 Estimate Project Cost

The total project cost is expected to be approximately \$130 million, broken down as follows:

Turbine cost	\$ 80 million
Transportation	\$ 8 million
Turbine installation cost	\$ 6 million
Foundations	\$ 6 million
Roads	\$ 9 million
Transmission lines	\$ 12 million
Other construction costs	\$ 5 million
Development costs	\$ 4 million

Evergreen Wind Power III, LLC (Evergreen) is the project applicant and owner. Evergreen is wholly owned by Maine Wind Partners III, LLC, which in turn is a wholly-owned subsidiary of First Wind Holdings, LLC (First Wind). Paul Gaynor is the President or Chief Executive Officer of all three companies. An affiliate of Evergreen and First Wind purchased the turbines that will be erected at the Rollins Wind Project and will assign ownership of such turbines to Evergreen. First Wind is providing the initial funding for the Rollins Wind Project. A letter of support from First Wind is attached (Appendix 3-1).

## 2.0 First Wind Background

First Wind (formerly UPC Wind Partners, LLC; [www.firstwind.com](http://www.firstwind.com)) is an independent North American wind energy company focused exclusively on the development, ownership and operation of wind energy projects. As of August 31, 2008, its portfolio of wind energy projects included approximately 5,564 megawatts (MW) of capacity, of which 92 MW were operating and 182 MW were under construction.

First Wind's strategy since inception in 2002 has been to build a company with the ability to develop, own and operate a portfolio of wind energy projects in favorable markets. Its team of more than 140 employees has broad experience in wind project development, transmission line development, meteorology, engineering, permitting, construction, finance, law, asset management, maintenance and operations. It has established land control, stakeholder relationships, meteorological programs, community initiatives and developed transmission solutions in the markets in which we focus.

First Wind's project financing expertise has raised in excess of \$2 billion of capital for the development and construction of wind power projects in the U.S. and specifically in excess of \$230 million for the development and construction of wind power projects in the State of Maine.

The Mars Hill project in Mars Hill, Maine, represents New England's largest utility-scale operating wind energy project. During construction of this 28 turbine, 42-MW facility, approximately \$22 million of the approximately \$95 million project cost went to Maine businesses and local spending. In addition, \$10 million in tax payments will be paid to the town of Mars Hill over the next 20 years. This project became fully operational in March of 2007. During its first year of operations, the project generated enough electricity to power approximately 29,000 households.

First Wind is currently constructing its second large scale wind power project in Maine, the Stetson Wind Project, approved by LURC in January of 2008. This 38-turbine, 57-MW facility is expected to be fully operational by the end of 2008.

## **Appendix 3-1**



August 1st, 2008

Jeff Madore  
Bureau of Land and Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

RE: Financial support for the Rollins Wind Project

Dear Mr. Madore:

This letter is to provide evidence of the commitment and ability of First Wind Holdings, LLC (formerly UPC Wind Partners, LLC) ("First Wind") to fund the development, construction, and operation of the approximately \$130 million Rollins Wind Project ("Rollins") to be located in Penobscot County, Maine proposed by Evergreen Wind Power III, LLC ("Evergreen").

Evergreen is a wholly-owned project subsidiary of First Wind and was formed to develop, finance, construct, own and operate Rollins. First Wind is funding the development of the project through its subsidiaries. With assets in excess of \$840 million, First Wind is dedicated to the business of financing, constructing and operating wind power projects in Maine. First Wind's financing expertise has raised in excess of \$2 billion of capital for the development, construction, and operation of wind power projects in the U.S. and specifically in excess of \$230 million for the development and construction of wind power projects in the State of Maine, with potential future investment of approximately \$370 million in the next two years.

In 2006, a member of D.E. Shaw group and an affiliate of Madison Dearborn Partners each made a significant investment in First Wind. The D.E. Shaw group is a specialized investment and technology development firm with approximately \$30 billion in aggregate capital. Madison Dearborn Partners is a private equity management firm focusing on investments in basic industries, energy and power, communications, consumer, financial services and health care and currently has approximately \$19 billion of equity capital under management.

In 2006, First Wind, through an affiliate company, financed and constructed the approximately \$95 million wind energy project located in Mars Hill, Maine. Approximately \$22 million of the construction costs went to Maine firms and local spending. The Mars Hill wind energy project is a 42 MW facility consisting of 28 wind turbines and commenced commercial operations in March 2007.

In 2008, First Wind, through an affiliate company, financed and began construction of the approximately \$155 million wind energy project located in Washington County, Maine ("Stetson"). An estimated \$35 million of the construction costs is expected to be spent on Maine firms and local spending. Stetson is a 57 MW facility consisting of 38 wind turbines is expected to be fully operational in the end of 2008.





The foregoing should provide sufficient information about First Wind's experience and activities in wind energy and about First Wind's ability to finance Rollins, however, please let me know if you require any additional information about First Wind, Rollins or our plans for wind energy development in the State of Maine.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Paul Gaynor', is written over the typed name.

Paul Gaynor  
President



10000 HIGHWAY 100, SUITE 200  
NEWTON, MA 02459

August 1st, 2008

Marcia Spencer Famous  
Maine Land Use Regulation Commission  
22 State House Station  
Augusta, Maine 04333-0022

RE: Financial support for the Stetson II Wind Project

Dear Ms. Spencer-Famous:

This letter is to provide evidence of the commitment and ability of First Wind Holdings, LLC (formerly UPC Wind Partners, LLC) ("First Wind") to fund the development, construction, and operation of the approximately \$60 million Stetson II Wind Project ("Stetson II") to be located in Washington County, Maine proposed by Stetson Wind II, LLC ("Stetson Wind II").

Stetson II is a wholly owned project subsidiary of First Wind and was formed to develop, finance, construct, own and operate Stetson II. First Wind is funding the development of the project through its subsidiaries. With assets in excess of \$840 million, First Wind is dedicated to the business of financing, constructing and operating wind power projects in Maine. First Wind's financing expertise has raised in excess of \$2 billion of capital for the development, construction, and operation of wind power projects in the U.S. and specifically in excess of \$230 million for the development and construction of wind power projects in the State of Maine, with potential future investment of approximately \$370 million in the next two years.

In 2006, a member of D.E. Shaw group and an affiliate of Madison Dearborn Partners each made a significant investment in First Wind. The D.E. Shaw group is a specialized investment and technology development firm with approximately \$30 billion in aggregate capital. Madison Dearborn Partners is a private equity management firm focusing on investments in basic industries, energy and power, communications, consumer, financial services and health care and currently has approximately \$19 billion of equity capital under management.

In 2006, First Wind, through an affiliate company, financed and constructed the approximately \$95 million wind energy project located in Mars Hill, Maine. Approximately \$22 million of the construction costs went to Maine firms and local spending. The Mars Hill wind energy project is a 42 MW facility consisting of 28 wind turbines and commenced commercial operations in March 2007.


In 2008, First Wind, through an affiliate company, financed and began construction of the approximately \$155 million wind energy project located in Washington County, Maine ("Stetson"). An estimated \$35 million of the construction costs is expected to be spent on Maine firms and local spending. Stetson is a 57 MW facility consisting of 38 wind turbines is expected to be fully operational in the end of 2008.

  
firstwind

CLEAN ENERGY. MADE HERE.

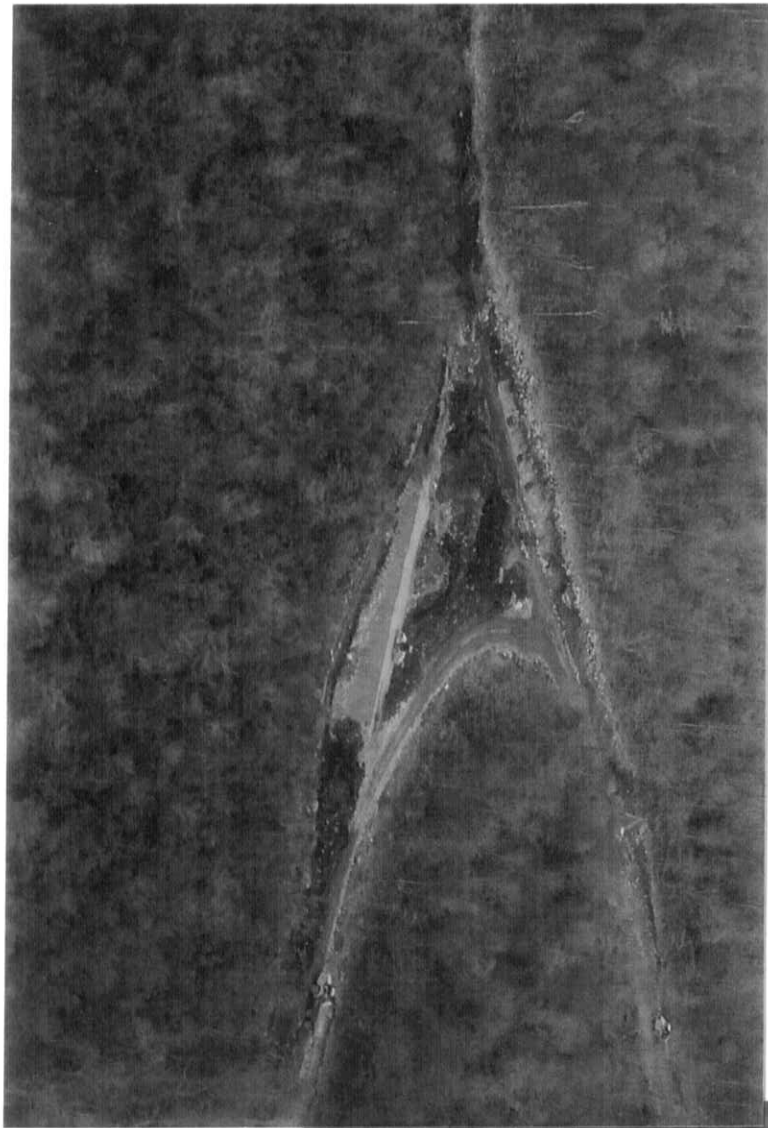
The foregoing should provide sufficient information about First Wind's experience and activities in wind energy and about First Wind's ability to finance Stetson II, however, please let me know if you require any additional information about First Wind, Stetson II or our plans for wind energy development in the State of Maine.

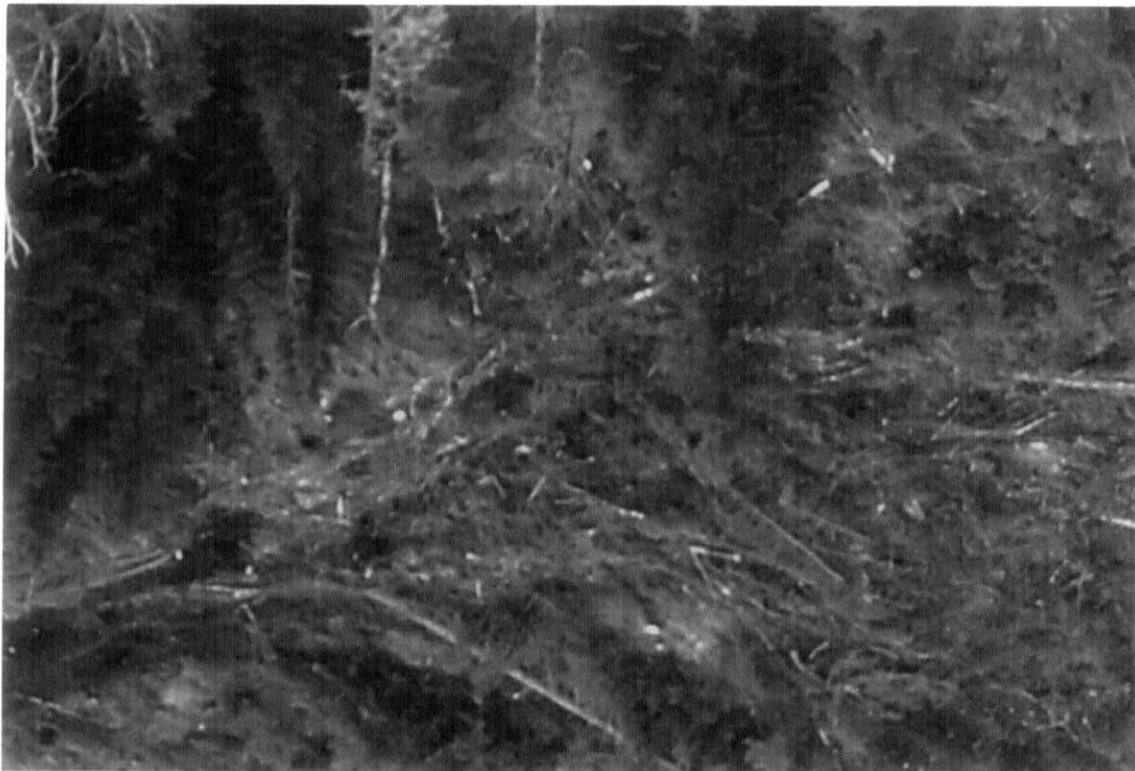
Sincerely,



Paul Gaynor  
President









**FIRST WIND HOLDINGS, LLC AND SUBSIDIARIES**  
(formerly known as UPC Wind Partners, LLC)

**Consolidated Balance Sheets**

(in thousands)

	December 31,		June 30,
	2006	2007	2008
			(Unaudited)
<b>Assets</b>			
Current assets:			
Cash and cash equivalents	\$ 5,797	\$ 3,527	\$ 10,349
Restricted cash	6,420	621	17,661
Accounts receivable	1,225	2,713	2,663
Prepaid expenses and other current assets	2,029	2,689	8,492
Deferred financing costs, net of accumulated amortization of \$1,371, \$4,346 and \$5,212 as of December 31, 2006 and 2007 and June 30, 2008 (unaudited), respectively	4,698	4,183	4,774
Total current assets	20,169	13,733	43,939
Property, plant and equipment, net	81,452	192,076	188,040
Construction in progress	85,153	346,320	463,566
Turbine deposits	170,759	201,472	315,365
Other non-current assets	14,967	17,065	20,215
Total assets	<u>\$372,500</u>	<u>\$ 770,666</u>	<u>\$1,031,125</u>
<b>Liabilities and Members' Capital</b>			
Current liabilities:			
Accrued capital expenditures	\$ 2,854	\$ 75,024	\$ 41,992
Accounts payable and accrued expenses	9,024	15,267	24,240
Derivative liabilities	1,259	4,181	13,264
Due to related parties	—	21,722	—
Debt with maturities less than one year	193,015	222,028	679,361
Total current liabilities	206,152	338,222	758,857
Long-term debt, net of current portion	64,869	243,421	21,670
Long-term derivative liabilities	10,006	37,791	81,981
Deferred revenue	850	850	2,085
Asset retirement obligations	2,104	2,506	2,587
Total liabilities	283,981	622,790	867,180
Commitments and contingencies (Note 13)			
Minority interest	—	79,081	59,345
Members' capital:			
Members' capital	136,870	185,217	290,137
Accumulated deficit	(48,351)	(116,422)	(185,537)
Total members' capital	88,519	68,795	104,600
Total liabilities and members' capital	<u>\$372,500</u>	<u>\$ 770,666</u>	<u>\$1,031,125</u>

STATE OF MAINE  
BOARD OF ENVIRONMENTAL PROTECTION


In Re:

RECORD HILL WIND, LLC )  
Roxbury, Oxford County )  
RECORD HILL WIND PROJECT )  
L-24441-24-A-N (approval )  
L-24441-TF-B-N (approval)

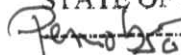
**AFFIDAVIT OF GARY STEINBERG  
IN SUPPORT OF MOTION  
PETITION FOR A TEMPORARY  
RESTRAINING ORDER**

I, Gary Steinberg, being first duly sworn, does depose and say as follows:

1. My name is Gary Steinberg. I am over 18 years old.
2. I took the aerial photographs of construction on the Record Hill Wind Project on Friday, October 30, 2009 attached to this Affidavit.
3. The photographs show heavy equipment and earth moving activity, tree cutting, road construction, culvert preparation, and placement. It also shows construction on what appears to be blasted areas. Much of the ridge area surveyed by air shows new road construction under way.
4. The photographs are fair representations of the construction of the Record Hill Wind Project on October 30, 2009.

  
Name

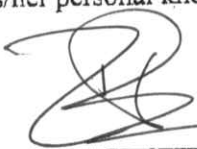
Dated: November 2, 2009

STATE OF MAINE  
Per  [County], ss.

November 2, 2009

Personally appeared the above-named GARY STEINBERG, and being sworn, made oath that the foregoing statements by him/her described are upon his/her personal knowledge.

Before me,

  
Notary Public/Attorney-at-Law